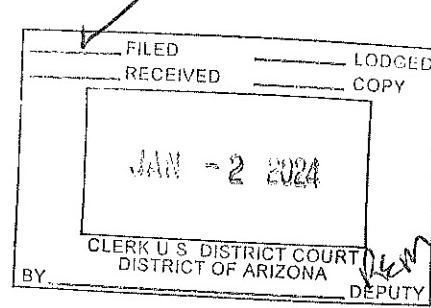


1 Mark William Kelly Pro Se Defendant  
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7 **IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA**  
 8  
 9 **IN AND FOR THE COUNTY OF PIMA**

10 Mark William Kelly,

Case No.: CV-24-00001-TUC-JCH(PSOT)

11 Plaintiff,

12 VS **COMPLAINT**

13 Pima County Sheriffs Department, Deputy  
 14 Gina M. Lumia (Badge #7532), Supervisor  
 15 Guy A. Marchal (Badge #5804), and James  
 Hinkle, Defendants

16 **COMPLAINT**

17 **JURISDICTION AND VENUE:**

- 18 1. This action arises under the laws of the United States and falls within the jurisdiction of  
 this Honorable Court pursuant to 28 U.S. Code § 1331, which grants federal courts  
 original jurisdiction over civil actions arising under the Constitution and laws of the  
 United States.
- 22 2. Venue is proper in this district pursuant to 28 U.S. Code § 1331(b)(2), as a substantial  
 part of the events giving rise to the claims occurred in this district and the Defendants  
 reside, can be found, or conduct substantial business within this district.

25 **RELEVANT U.S. CODES PERTAINING TO CIVIL RIGHT VIOLATIONS:**

- 26 1. 42 U.S. Code § 1983: Violation of rights under the color of state law.
- 27 2. 42 U.S. Code § 1985: Conspiracy to interfere with civil rights.
- 28 3. 18 U.S. Code § 241: Conspiracy against rights.

- 1       3. 18 U.S. Code § 241: Conspiracy against rights.
- 2       4. 18 U.S. Code § 242: Deprivation of rights under color of law.
- 3       5. 14th Amendment: Equal Protection and Due Process Clauses.

4 NATURE OF ACTION AND FACTUAL ALLEGATIONS:

- 5       1. The Plaintiff, Mark William Kelly, a law-abiding citizen, was peacefully recording in a  
6           public easement from their vehicle when confronted by Construction Worker James  
7           Hinkle without any lawful basis or justification on or about January 18th, 2022.
- 8       2. Subsequently, Defendants Deputy Gina Lumia, Deputy, Yepiz R. Alcarez, Deputy Trevor  
9           Tuminello, and Supervisor Guy Marchal, employees of the Sheriffs Department, arrived  
10          at the scene. Despite no evidence of wrongdoing, Plaintiff was forcibly removed from  
11          their vehicle, arrested without probable cause, and subjected to excessive force, resulting  
12          in permanent nerve damage due to the excessively tight application of handcuffs.
- 13       3. Defendants' actions violated Plaintiff's constitutional rights under the Fourth and First  
14           Amendments. The unwarranted seizure, retaliation for protected First Amendment  
15           activity, and the use of excessive force during the arrest are clear violations of Plaintiff's  
16           fundamental rights.
- 17       4. Following the arrest, Plaintiff was subjected to further unlawful treatment at the jail,  
18           including strip-searching, fingerprinting, and a forced COVID test, conducted without  
19           proper legal grounds. Plaintiff was unjustly held against their will for several hours,  
20           leading to false imprisonment.
- 21       5. Defendants, acting under color of state law, deprived Plaintiff of their constitutional  
22           rights guaranteed by the 14th Amendment of the United States Constitution. Defendants'  
23           actions violated the Equal Protection Clause, resulting in differential treatment of  
24           Plaintiff without any justifiable or rational basis.
- 25       6. Despite Supervisor Marchal's prior knowledge of Plaintiff's lawful recording activities  
26           and the underlying reasons, Defendants subjected Plaintiff to unwarranted arrest,  
27           excessive use of force, and false imprisonment, thereby denying Plaintiff's due process  
28           rights under the 14th Amendment.

7. Furthermore, during the entire incident, Plaintiff was live-streaming the encounter on the internet, providing real-time evidence of the events. This live stream corroborates Plaintiff's account and substantiates the unwarranted actions and constitutional violations committed by the Defendants.

## **CLAIMS FOR RELIEF:**

1. Violation of Fourth Amendment rights against unreasonable search and seizure.
  2. Violation of First Amendment rights through retaliation for protected activity.
  3. Excessive use of force resulting in injury, violating Plaintiff's civil rights.
  4. False imprisonment and unlawful detention without legal basis.
  5. Conspiracy to interfere with civil rights.
  6. Deprivation of rights under color of law.
  7. Violation of the 14th Amendment's Equal Protection and Due Process Clauses.

## PRAYER FOR RELIEF:

1. Compensatory damages in the amount of \$5,000,000 for physical injury, emotional distress, humiliation, and violation of constitutional rights.
  2. Punitive damages against Defendants due to their egregious and willful conduct.
  3. Declaratory relief affirming Plaintiff's rights and preventing future violations.
  4. Injunctive relief ensuring proper training and oversight within the Sheriffs Department to prevent similar incidents.
  5. Attorneys' fees and costs incurred in pursuing this action,

**JURY DEMAND:**

Plaintiff demands a trial by jury on all claims so triable.

## **CONCLUSION:**

Wherefore, Plaintiff Mark W. Kelly respectfully requests this Honorable Court to award the relief sought herein and any other relief deemed just and proper by this Court.

Respectfully Submitted,

## **Mark William Kelly**

Mr W Kelly

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5  
6 **ORIGINAL** of the foregoing e-filed  
7 this 2nd day of January 2024 with:  
8 Clerk of the Court:  
9 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA  
10 IN THE COUNTY OF PIMA

11  
12 **COPY** of the forgoing to be served to:  
13 Defendants on or about January 4th, 2024

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